

AMENDED IN ASSEMBLY JUNE 28, 2002

AMENDED IN SENATE APRIL 19, 2001

**SENATE BILL**

**No. 577**

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**Introduced by Senator Burton**

February 22, 2001

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An act to add ~~Section 2053.5~~ *Sections 2053.5 and 2053.6* to the Business and Professions Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

SB 577, as amended, Burton. Health: complementary and alternative health care practitioners.

Existing law regulates the practice of medicine in the state, and in that regard prohibits persons who are not licensed as physicians and surgeons from engaging in certain activities constituting the practice of medicine.

This bill, notwithstanding any other provision of law, would provide that a person *engaging in certain medical treatments* who ~~discloses~~ *makes specified written disclosures* to a client ~~that he or she is not a licensed physician~~ shall not be in violation of certain provisions of the Medical Practice Act unless that person engages in specified diagnosis, treatment, and other activities ~~with respect to another person~~. *The bill would require a person who advertises himself or herself as performing the services that are subject to those requirements to state in the advertisement that he or she is not licensed by the state as a healing arts practitioner.*

This bill would also make various findings of the Legislature concerning the utilization of complementary and alternative health care services.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature hereby finds and declares all of  
2 the following:

3 (a) Based upon a comprehensive report by the National  
4 Institute of Medicine and other studies, including a study  
5 published by the New England Journal of Medicine, it is evident  
6 that millions of Californians, perhaps more than five million, are  
7 presently receiving a substantial volume of health care services  
8 from complementary and alternative health care practitioners.  
9 Those studies further indicate that individuals utilizing  
10 complementary and alternative health care services cut across a  
11 wide variety of age, ethnic, socioeconomic, and other  
12 demographic categories.

13 (b) Notwithstanding the widespread utilization of  
14 complementary and alternative medical services by Californians,  
15 the provision of many of these services may be in technical  
16 violation of the Medical Practice Act (Chapter 5 (commencing  
17 with Section 2000) of Division 2 of the Business and Professions  
18 Code). Complementary and alternative health care practitioners  
19 could therefore be subject to fines, penalties, and the restriction of  
20 their practice under the Medical Practice Act even though there  
21 ~~was~~ *is* no demonstration that their practices are harmful to the  
22 public.

23 (c) The Legislature intends, by enactment of this act, to  
24 ~~facilitate~~ *allow* access by ~~Californian~~ *California* residents to  
25 complementary and alternative health care practitioners who are  
26 not providing services that require medical training and  
27 credentials. The Legislature further finds that these nonmedical  
28 complementary and alternative services do not pose a *known* risk  
29 to the health and safety of California residents, and that restricting  
30 access to those services due to technical violations of the Medical  
31 Practice Act is not warranted.

32 SEC. 2. Section 2053.5 is added to the Business and  
33 Professions Code, to read:

34 2053.5. (a) Notwithstanding any other provision of law, a  
35 ~~person who discloses to a client that he or she is not a licensed~~

1 ~~physician~~ who complies with the requirements of Section 2053.6  
2 shall not be in violation of Section 2051, 2052, or 2053 unless that  
3 person does any of the following:

4 ~~(a)~~

5 (1) Conducts surgery or any other procedure on another person  
6 that punctures the skin or harmfully invades the body.

7 ~~(b)~~

8 (2) Administers or prescribes X-ray radiation to another  
9 person.

10 ~~(c)~~

11 (3) Prescribes or administers legend drugs or controlled  
12 substances to another person.

13 ~~(d)~~

14 (4) Recommends the discontinuance of legend drugs or  
15 controlled substances prescribed by an appropriately licensed  
16 practitioner.

17 ~~(e)~~

18 (5) Willfully diagnoses and treats a physical or mental  
19 condition of any person under circumstances or conditions that  
20 cause or create *a risk of* great bodily harm, serious physical or  
21 mental illness, or death.

22 ~~(f)~~

23 (6) *Sets fractures.*

24 (7) *Treats lacerations or abrasions through electrotherapy.*

25 (8) Holds out, states, indicates, advertises, or implies to a client  
26 or prospective client that he or she is a physician, a surgeon, or a  
27 physician and surgeon.

28 (b) *A person who advertises any services that are not unlawful*  
29 *under Section 2051, 2052, or 2053 pursuant to subdivision (a)*  
30 *shall disclose in the advertisement that he or she is not licensed by*  
31 *the state as a healing arts practitioner.*

32 SEC. 3. Section 2053.6 is added to the Business and  
33 Professions Code, to read:

34 2053.6. (a) *A person who provides services pursuant to*  
35 *Section 2053.5 that are not unlawful under Section 2051, 2052, or*  
36 *2053 shall, prior to providing those services, do the following:*

37 (1) *Disclose to the client in a written statement using plain*  
38 *language the following information:*

39 (A) *That he or she is not a licensed physician.*

1 (B) That the treatment is alternative or complementary to  
2 healing arts services licensed by the state.

3 (C) That the services to be provided are not licensed by the  
4 state.

5 (D) The nature of the services to be provided.

6 (E) The theory of treatment upon which the services are based.

7 (F) His or her educational, training, experience, and other  
8 qualifications regarding the services to be provided.

9 (2) Obtain a written acknowledgement from the client stating  
10 that he or she has been provided with the information described in  
11 paragraph (1). The client shall be provided with a copy of the  
12 written acknowledgement, which shall be maintained by the  
13 person providing the service for three years.

14 (b) The information required by subdivision (a) shall be  
15 provided in a language that the client understands.

16 (c) Nothing in this section or in Section 2053.5 shall be  
17 construed to do the following:

18 (1) Affect the scope of practice of licensed physicians and  
19 surgeons.

20 (2) Limit the right of any person to seek relief for negligence or  
21 any other civil remedy against a person providing services subject  
22 to the requirements of this section.

